

8.15.2022

ORIGINAL

ORDINANCE NO. 2022-021

BEING AN ORDINANCE TO AMEND
THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE

WHEREAS, the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana to adopt a Comprehensive Zoning Ordinance and also provides for amendments to the said ordinance as the need arises; and

WHEREAS, the Board of County Commissioners of Delaware County, Indiana has given reasonable regard to the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DELAWARE COUNTY, INDIANA, as follows:

Section 1. That the Delaware County Comprehensive Zoning Ordinance, heretofore adopted by the Board of County Commissioners of Delaware County, Indiana, on the 11th day of December, 1973, be amended, changed and supplemented so as to include in the BP Business & Professional Office Zone the following described real estate located in Delaware County, Indiana, to wit:


see attachment

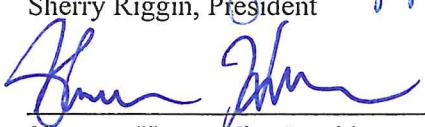
Section 2. That no structures shall be placed on said lot or parcel of land except in compliance with the Delaware County Comprehensive Zoning Ordinance of Delaware County, Indiana.

Section 3. That this Ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners of Delaware County, Indiana.

Section 4. That this Ordinance is adopted/vetoed this 15 day of August, 2022.

BOARD OF COUNTY COMMISSIONERS
DELAWARE COUNTY, INDIANA


Sherry Riggins, President


Shannon Henry, Vice President


James King, Member

ATTEST:



Steven G. Craycraft, Auditor

Exhibit A

Area to Rezone

A part of the south half of the southeast quarter of Section 29, Township 21 North, Range 10 East in Hamilton Township, Delaware County, Indiana described as follows:

Commencing at a nail at the point of intersection of the south line of the southeast quarter of Section 29, Township 21 North, Range 10 East with the center line of the Wheeling Pike; thence north 23 degrees 49 minutes 32 seconds west 533.00 feet (assumed bearing) along the center line of said pike to the point of beginning; thence south 89 degrees 37 minutes 28 seconds west 427.25 feet along the north line of a tract of ground described in Deed Record 1986, page 3672, Records of Delaware County, Indiana to the northwest corner of said tract; thence south 23 degrees 49 minutes 32 seconds east 100.00 feet to the southwest corner of said tract; thence south 89 degrees 37 minutes 28 seconds west 172.48 feet; thence north 25 degrees 11 minutes 00 seconds west 893.70 feet along the easterly line of a tract of ground described in Deed Record 1995, page 1766, Records of Delaware County, Indiana, to the southerly line of Moore Road; thence north 80 degrees 58 minutes 20 seconds east 315.57 feet along the southerly line of Moore Road; thence north 83 degrees 50 minutes 05 seconds east 100.13 feet along said southerly right-of-way line; thence south 87 degrees 43 minutes 04 seconds east 101.52 feet along said southerly line; thence south 50 degrees 11 minutes 00 seconds east 54.22 feet along said southerly line; thence south 30 degrees 52 minutes 14 seconds east 125.90 feet along said right-of-way line; thence north 65 degrees 58 minutes 20 seconds east 40.00 feet to a point on the center line of Wheeling Pike; thence south 23 degrees 49 minutes 32 seconds east 702.62 feet, more or less, to the point of beginning, containing 10.84 acres, more or less, and subject to an electrical transmission line easement, to a drainage easement, to the right-of-way for the Wheeling Pike and to all easements of record.

**REPORT TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA**

August 8th, 2022

To The Honorable:

Board of County Commissioners of Delaware County, Indiana

Dear Board Members:


The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the application of: Rene Warner VanFleet, 1209 N. Grove Ct., Muncie, IN, such applicant petitioning the commission to rezone the real estate as described in the application, generally located at: the southwest corner of N. Wheeling Ave. and W. Moore Rd., Muncie, IN, from zone classification: R-2 Residence Zone and R-5 Residence Zone to zone classification: BP Business & Professional Office Zone.

WHEREAS, the Commission has given reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout in the jurisdiction and responsible growth and development; and

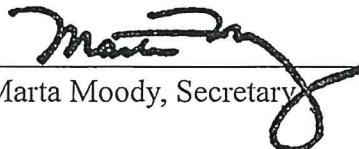
NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby FAVORABLY RECOMMENDS (5-0, 1 abstained, 3 absent) the application for rezoning.

**DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION**

BY:



Allen Wiseley, President



Marta Moody, Secretary

Delaware-Muncie Metropolitan Plan Commission
Excerpt of Case Analysis - August 2022

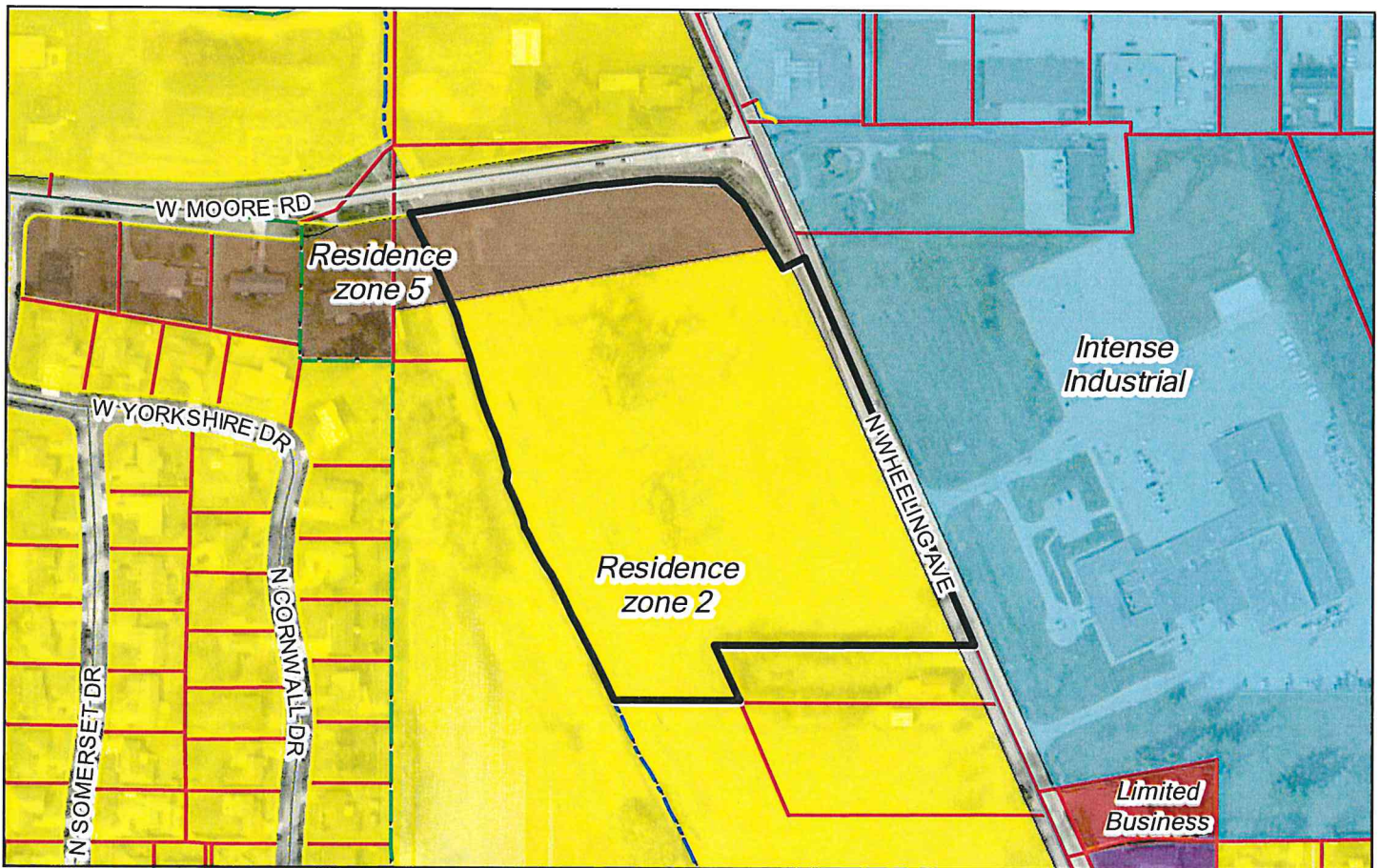
MPC 03-22Z VanFleet, Rene Warner

Location & Description: Southwest corner of N. Wheeling Ave. and W. Moore Rd., Hamilton Twp.

Located on the west side of N. Wheeling Ave. and the south side of W. Moore Rd.

Traveling north on Wheeling Ave. from downtown go ~ 3.1 miles to W. Moore Rd., turn left (west), the site is on the left (south) side of W. Moore Rd.

The site is one parcel consisting of ~10.84 acres. The site is currently vacant (greenspace).



Streets: This section of N. Wheeling Ave. is classified as a Secondary Arterial with an 80' proposed R.O.W. according to the Thoroughfare Plan Map. This section of N. Wheeling Ave. does not include dedicated R.O.W. for ~702'; there is dedicated R.O.W. for the intersection with Moore Rd. that varies in width with the minimum width of 40'.

This section of W. Moore Rd. is classified as a Collector with a 60' proposed R.O.W. according to the Thoroughfare Plan Map. This section of W. Moore Rd. includes dedicated R.O.W. that varies in width with the minimum width of ~63'.

These sections of N. Wheeling Ave. and W. Moore Rd. are classified as Major Roads according to the Delaware County Major/Minor Roads Map. There is a traffic signal at the intersection of Wheeling Ave. and Moore Rd.

Land Use: The site is currently agricultural in use. Surrounding properties to the north are residential in use; surrounding properties to the east are industrial (utility), residential, and commercial in use; surrounding properties to the south are commercial and greenspace (vacant) in use; and surrounding properties to the west are greenspace (vacant) in use.

Zoning: This site is classified in the R-2 Residence Zone and the R-5 Residence Zone. Surrounding properties to the north and south are classified in the R-2 Residence Zone. Surrounding properties to the east are classified in the II Intense Industrial Zone. Surrounding properties to the west are classified in the R-2 Residence Zone and the R-5 Residence Zone.

Request: The applicant is requesting a change in zone to the BP Business & Professional Office Zone. The applicant would like to sell the property to a buyer that would like to build a daycare.



View of the site from the east looking west.
The visible structures are in the Halteman Village neighborhood; they are not on this case's site.



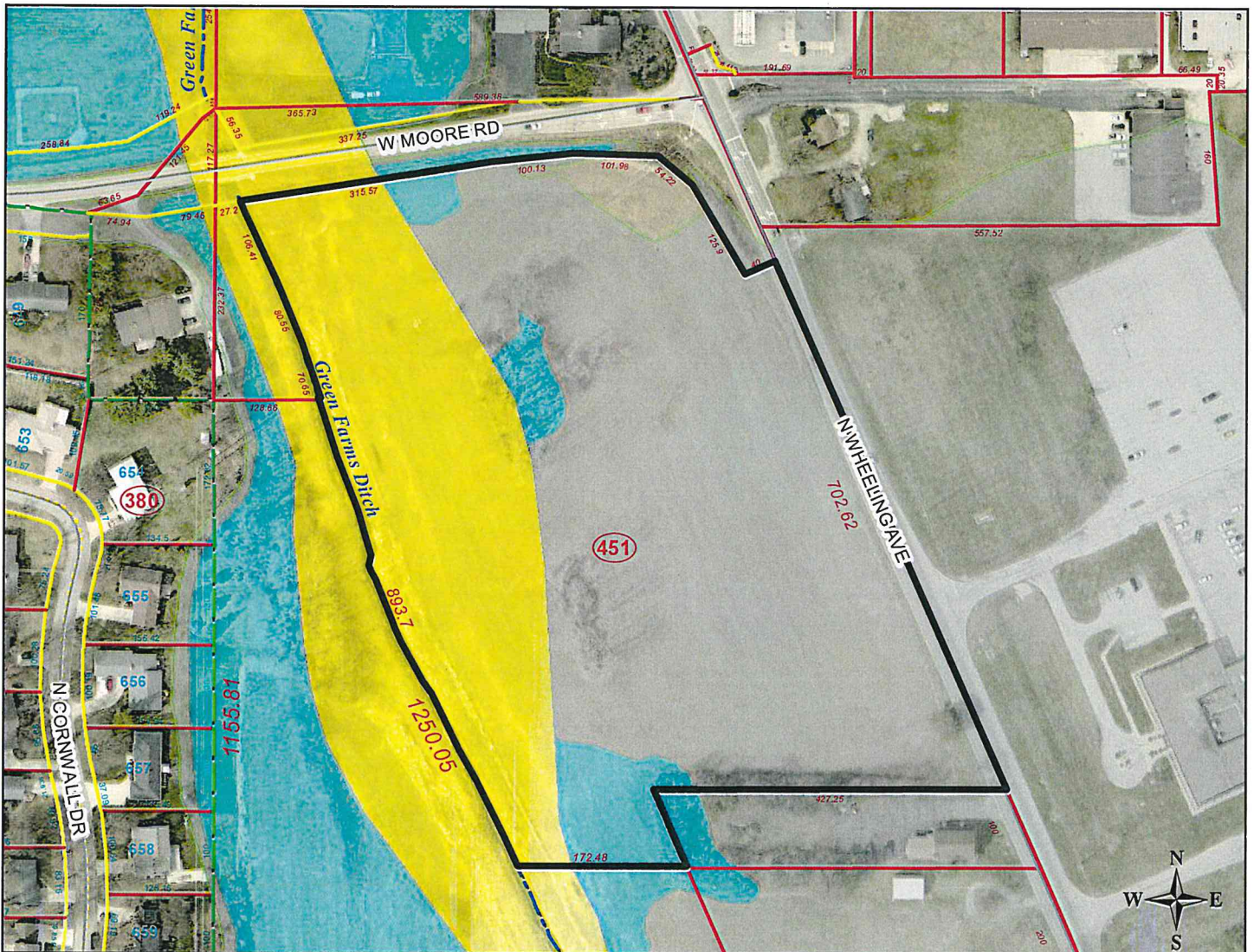
View of the site from the northeast looking south.



View of the site from the northeast looking slightly southwest.



View of the site from the northwest looking southeast.



Areas on the site impacted by floodplain. The floodplain is made up of the floodway and floodway fringe. Yellow areas are in the floodway, blue areas are in the floodway fringe.

DELAWARE-MUNCIE METROPOLITAN PLAN COMMISSION
PROPOSED ZONING CHANGE APPLICATION

Jurisdiction: (Check One)

Submitted: July 13, 2022

☒ Delaware County

Case No.: MPC 03-22Z

☐ City of Muncie

(1) Applicant: Rene Warner VanFleet

Address: 1209 N. Grove Ct. Phone: 7657492303
Muncie, IN 47304

(2) Record of Applicant's Ownership:

A. ☒ By Deed:
Deed Book No. & Page No.: See attached Deed
Date of Deed: See attached Deed

B. ☐ By Recorded Contract:
Misc. Book No. & Page No.: _____
Date of Contract: _____

C. ☐ By Unrecorded Contract:
Date of Contract: _____
Name of Contract Seller: _____
Book No. & Page No. Of Deed in Seller's Name: _____

(3) Legal Description of Property for which rezoning is requested: (From the Deed or Abstract).
See attached Deed.

(4) Common Address of Property Involved:
Southwest corner of Wheeling Ave. and Moore Rd.

(5) Proposed zoning change: (Give exact zone classification.)
From the R2 and R5 Residence Zone
To the BP Business and Professional Office Zone

(6) Intent and Purpose of Proposed Change: (Specify use contemplated on property.)
Buyer intends to build a daycare center with access via Moore Road. An approx. 9,000 sq. ft. building will be built on the NE portion of the development area outside of the flood plain. If rezoning is approved, all requirements will be met.

(7) Will the Owner develop the property for the use specified in Item 6 or does owner intend to sell property for the purpose specified.
Owners intend to sell to Janelle Kramer for a daycare center.

(8) State how the proposed change will not adversely affect the surrounding area.
A daycare center and other uses permitted in the BP Business and Professional Office zone are low impact and will be compatible with surrounding areas.

(9) Will certain variances be requested if the proposed zoning change is granted?
(If yes, list the variances)
No other variances anticipated.

(10) Has the applicant provided stamped, addressed envelopes to send notices of this rezoning to all the property owners within 300 feet? yes
Has the applicant discussed this rezoning with those owners personally? no
(If answer is yes, give their attitudes toward the rezoning.)

(11) Are there any restrictions, easements, and/or covenants governing the property prohibiting its use for the purpose specified in this application?
(If answer is yes, attach copy of it and/or explain.)
None known.

AFFIDAVIT

Rene Warner VanFleet, Cynthia L Parker and Ann J. Fruit

(I or We) _____ being duly sworn, depose and say that I/We am/are the owner(s)/contract owner(s) and contract seller(s) of property involved in this application and that the foregoing signatures, statements, and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

Warner Van Fleet

dotloop verified
07/12/22 6:53 PM EDT
Q7TY-GSNU-KYN4-Q588

SIGNATURES:

Cynthia Parker

dotloop verified
07/12/22 8:34 PM EDT
11T7-WQ7T-XESU-EW0D

Ann Fruit

dotloop verified
07/12/22 6:22 PM CDT
6ZRG-LRMR-XB80-AZBQ

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission Expires

Resident of _____ County

State of _____

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was submitted to the Delaware-Muncie Metropolitan Plan Commission Office in accordance with all the formal requirements. If properly advertised by the applicant, this application will be heard by the Plan Commission in Public hearing on the 4th day of August, 2022.

Signed _____

Date 7-19-22

30272

RE
DEED 1999 9453FILED FOR RECORD
Record 1999 Page 9453

DEC 30 1999

Tax mailing address: 4100 West Robinwood Drive, Muncie, Indiana 47304.

WARRANTY DEED

C. R. Warner
Recorder Delaware County

This Indenture Witnesseth, That I, Lois Tyler VanFleet, of Delaware County, in the State of Indiana, DO HEREBY Convey and Warrant an undivided one-third interest to my son, René Warner VanFleet of Delaware County, Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Delaware County, in the State of Indiana, to-wit:

✓ A part of the south half of the southeast quarter of Section 29, Township 21 north, Range 10 east in Hamilton Township, Delaware County, Indiana described as follows:

Commencing at a nail at the point of intersection of the south line of the southeast quarter of Section 29, Township 21 north, Range 10 east with the center line of the Wheeling Pike; thence north 23 degrees, 49 minutes, 32 seconds west 533.00 feet (assumed bearing) along the center line of said pike to the point of beginning; thence south 89 degrees, 37 minutes, 28 seconds west 427.25 feet along the north line of a tract of ground described in Deed Record 1986, page 3672, Records of Delaware County, Indiana to the northwest corner of said tract; thence south 23 degrees, 49 minutes, 32 seconds east 100.00 feet to the southwest corner of said tract; thence south 89 degrees, 37 minutes, 28 seconds west 172.48 feet; thence north 25 degrees, 11 minutes, 00 seconds west 893.70 feet along the easterly line of a tract of ground described in Deed Record 1995, page 1766, Records of Delaware County, Indiana, to the southerly line of Moore Road; thence north 80 degrees, 58 minutes, 20 seconds east 315.57 feet along the southerly line of Moore Road; thence north 83 degrees, 50 minutes, 05 seconds east 100.13 feet along said southerly right-of-way line; thence south 87 degrees, 43 minutes, 04 seconds east 101.98 feet along said southerly line; thence south 50 degrees, 11 minutes, 00 seconds east 54.22 feet along said southerly line; thence south 30 degrees, 52 minutes, 14 seconds east 125.90 feet along said right-of-way line; thence north 65 degrees, 58 minutes, 20 seconds east 40.00 feet to a point on the center line of Wheeling Pike; thence south 23 degrees, 49 minutes, 32 seconds east 702.62 feet, more or less, to the point of beginning, containing 10.84 acres, more or less, and subject to an electrical transmission line easement, to a drainage easement, to the right-of-way for the Wheeling Pike and to all easements of record.

Tax ID Number: 21-08803
Sidwell Number:

This grant is subject to the following terms and conditions:

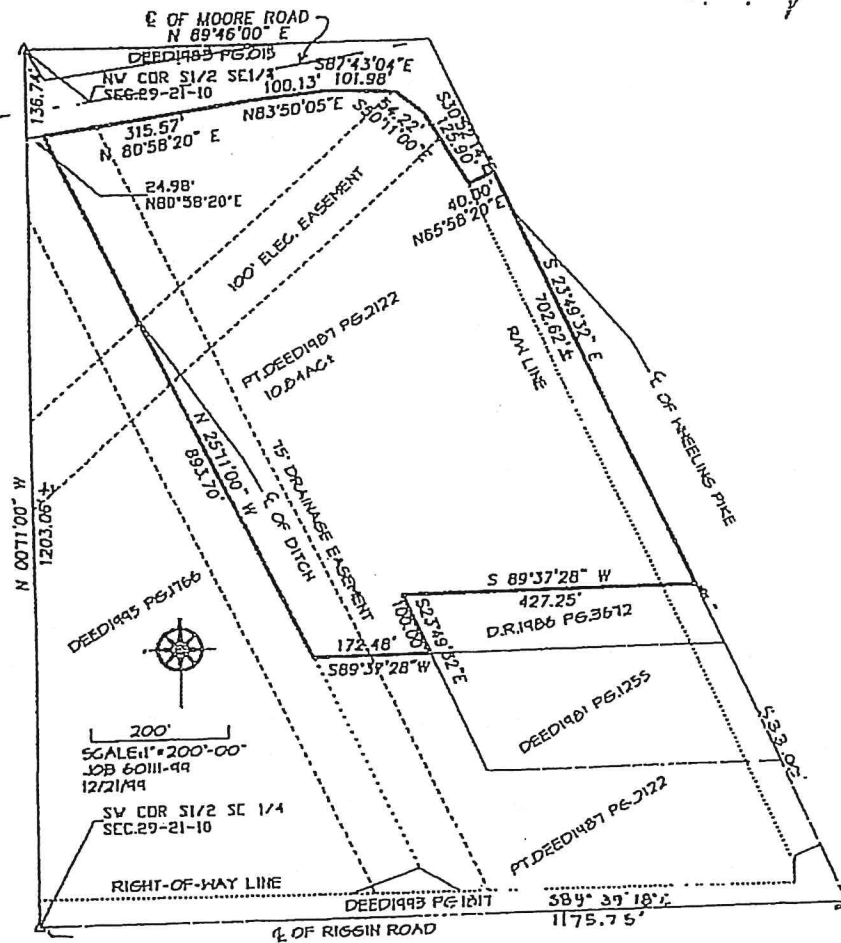
1. It is my desire that the property stays in my family so long as any of my three children desire to retain title to that property. Each child now owns an undivided one-third interest. Therefore, the property shall be saleable only to one or more of the co-owners of the property, or their issue, unless all co-owners are in agreement that the property is to be sold to a non-family member.
2. At the death of one of my children, provided that child still retains an ownership interest in and to the property described herein, an undivided interest in that property shall transfer to the issue, *per stirpes*, of the child who dies holding an ownership interest in the property.
3. The restriction on alienability of the real estate shall terminate as to the deceased child's undivided one-third interest, upon the death of that child and the transfer of the interest in the property to his or her issue.

Duly Entered for Taxation
Transfer Fee \$ 5.00
DEC 30 1999

DELAWARE COUNTY

14:25.40 1999

DEED 1999 9455



Sheet 1 of 2

DATED
December 27, 1999



Ashton Land
Surveyor, Inc.
223 W. WASHINGTON
MUNCIE, INDIANA 47308
Phone (765) 262-8584

30273

RE
DEED 1999 9457FILED FOR RECORD
2:30 o'clock
Record 1775 Page 9457-
1/3 U.C. 31 1999 9460

Tax mailing address: 909 Wilson Drive, Dover, Delaware 19904.

S. J. Parker
Recorder Delaware County

WARRANTY DEED

This Indenture Witnesseth, That I, Lois Tyler VanFleet, of Delaware County, in the State of Indiana, DO HEREBY Convey and Warrant an undivided one-third interest to my daughter, Cynthia L. Parker of Kent County, in the State of Delaware; for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Delaware County, in the State of Indiana, to-wit:

✓ A part of the south half of the southeast quarter of Section 29, Township 21 north, Range 10 east in Hamilton Township, Delaware County, Indiana described as follows:

Commencing at a nail at the point of intersection of the south line of the southeast quarter of Section 29, Township 21 north, Range 10 east with the center line of the Wheeling Pike; thence north 23 degrees, 49 minutes, 32 seconds west 533.00 feet (assumed bearing) along the center line of said pike to the point of beginning; thence south 89 degrees, 37 minutes, 28 seconds west 427.25 feet along the north line of a tract of ground described in Deed Record 1986, page 3672, Records of Delaware County, Indiana to the northwest corner of said tract; thence south 23 degrees, 49 minutes, 32 seconds east 100.00 feet to the southwest corner of said tract; thence south 89 degrees, 37 minutes, 28 seconds west 172.48 feet; thence north 25 degrees, 11 minutes, 00 seconds west 893.70 feet along the easterly line of a tract of ground described in Deed Record 1995, page 1766, Records of Delaware County, Indiana, to the southerly line of Moore Road; thence north 80 degrees, 58 minutes, 20 seconds east 315.57 feet along the southerly line of Moore Road; thence north 83 degrees, 50 minutes, 05 seconds east 100.13 feet along said southerly right-of-way line; thence south 87 degrees, 43 minutes, 04 seconds east 101.98 feet along said southerly line; thence south 50 degrees, 11 minutes, 00 seconds east 54.22 feet along said southerly line; thence south 30 degrees, 52 minutes, 14 seconds east 125.90 feet along said right-of-way line; thence north 65 degrees, 58 minutes, 20 seconds east 40.00 feet to a point on the center line of Wheeling Pike; thence south 23 degrees, 49 minutes, 32 seconds east 702.62 feet, more or less, to the point of beginning, containing 10.84 acres, more or less, and subject to an electrical transmission line easement, to a drainage easement, to the right-of-way for the Wheeling Pike and to all easements of record.

Tax ID Number: 21-00863
Sidwell Number:

This grant is subject to the following terms and conditions:

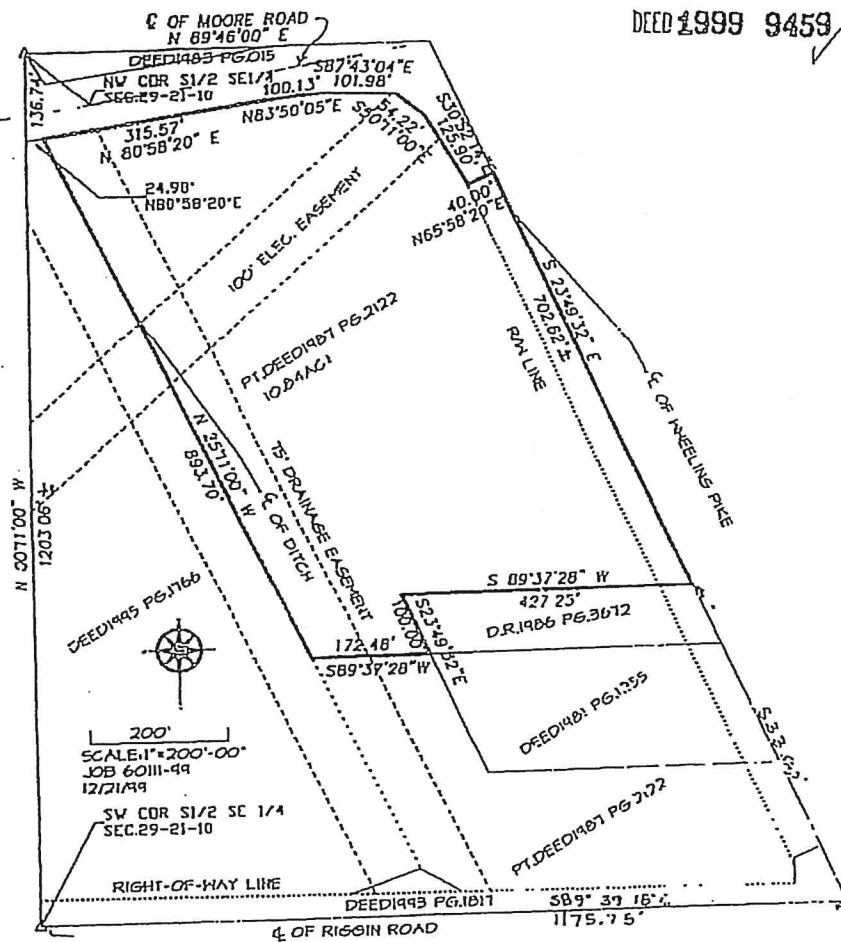
1. It is my desire that the property stays in my family so long as any of my three children desire to retain title to that property. Each child now owns an undivided one-third interest. Therefore, the property shall be saleable only to one or more of the co-owners of the property, or their issue, unless all co-owners are in agreement that the property is to be sold to a non-family member.
2. At the death of one of my children, provided that child still retains an ownership interest in and to the property described herein, an undivided interest in that property shall transfer to the issue, per stirpes, of the child who dies holding an ownership interest in the property.
3. The restriction on alienability of the real estate shall terminate as to the deceased child's undivided one-third interest, upon the death of that child and the transfer of the interest in the property to his or her issue.

Duly Entered for Taxation
Transfer Fee 1.00

DEC 30 1999

DELAWARE COUNTY

DEED 1999 9459



DATED
December 22, 1999



**Ashton Land
Surveyor, Inc.**
321 W. WASHINGTON
MUNCIE, INDIANA 47303
PHONE (765) 292-5594

30274

DEC 1999 9461
 FILED FOR RECORD
 1474 9461
 1/3

DEC 1999 9464
 3

Delaware County
 Recorder

Tax mailing address: 5644 Victoria Court, Newburgh, Indiana 47630.

WARRANTY DEED

This Indenture Witnesseth, That I, Lois Tyler VanFleet, of Delaware County, in the State of Indiana, DO HEREBY Convey and Warrant an undivided one-third interest to my daughter, Ann J. Fruit of Warrick County, in the State of Indiana; for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described Real Estate in Delaware County, in the State of Indiana, to-wit:

A part of the south half of the southeast quarter of Section 29, Township 21 north, Range 10 east in Hamilton Township, Delaware County, Indiana described as follows:

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Tax ID Number: 21-00803
 Sidwell Number:

This grant is subject to the following terms and conditions:

1. It is my desire that the property stay in my family so long as any of my three children desire to retain title to that property. Each child now owns an undivided one-third interest. Therefore, the property shall be saleable only to one or more of the co-owners of the property, or their issue, unless all co-owners are in agreement that the property is to be sold to a non-family member.
2. At the death of one of my children, provided that child still retains an ownership interest in and to the property described herein, an undivided interest in that property shall transfer to the issue, *per stirpes*, of the child who dies holding an ownership interest in the property.
3. The restriction on alienability of the real estate shall terminate as to the deceased child's undivided one-third interest, upon the death of that child and the transfer of the interest in the property to his or her issue.

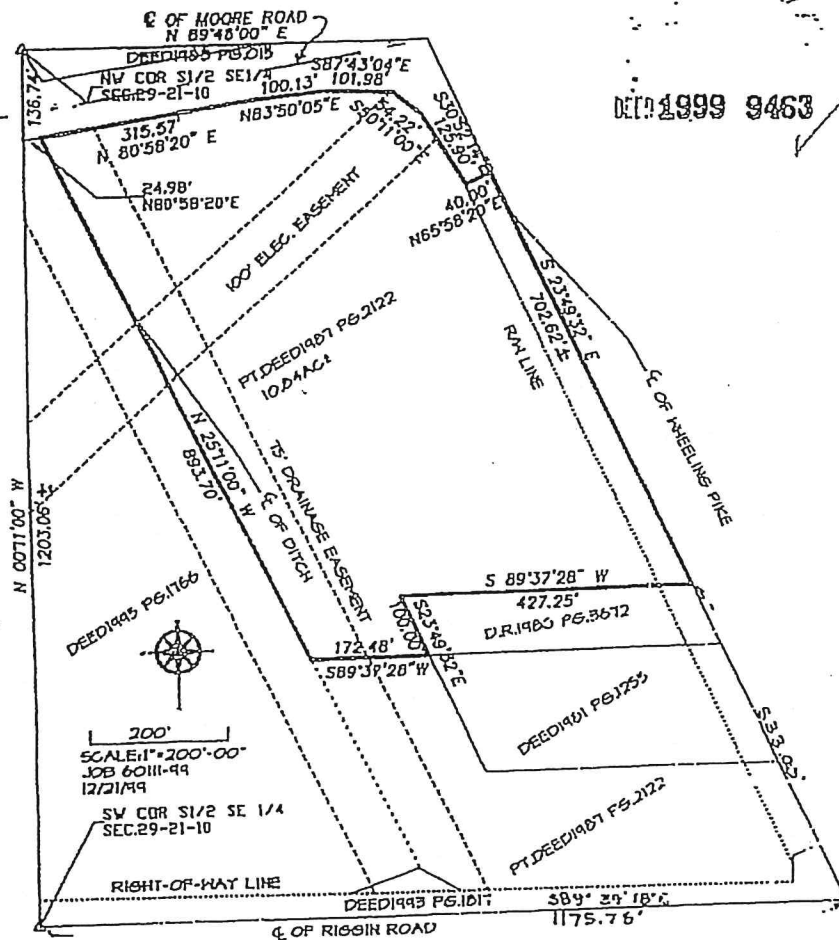
Daily Entered for Taxation
 Transfer Fee: 3.00

DEC 19 1999

DELORE

14:25:40 1999

DEC 1999 9463

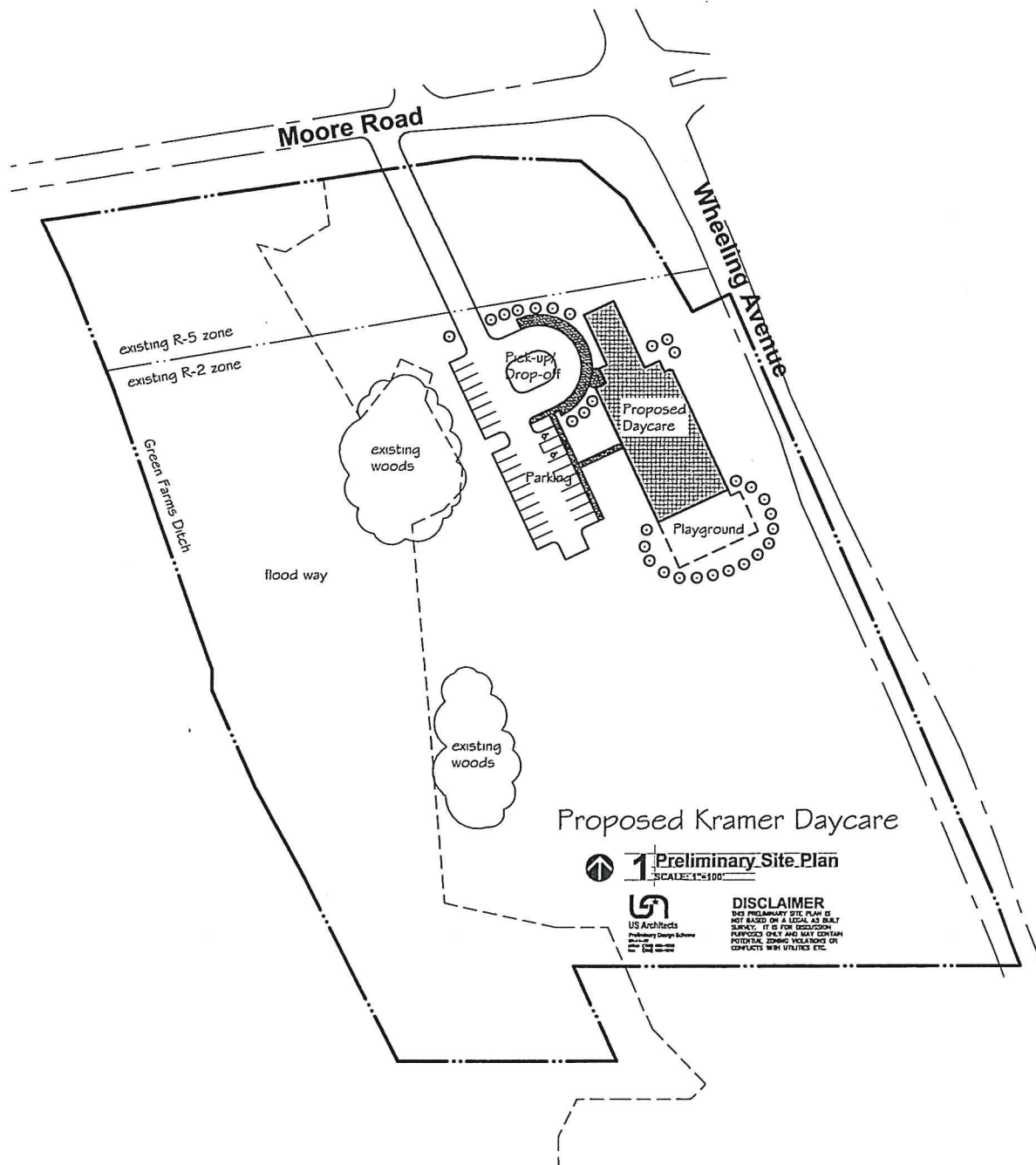


Sheet 1 of 2

DATED
December 27, 1999

Ashton Land
Surveyor, Inc.
225 W. WASHINGTON
MUNCIE, INDIANA 47308
Phone (765) 202-6684

BEST AVAILABLE COPY



DMMPC

EXHIBIT MPC 03-227

APPLICANT ✓ JANELE KRAMER

OPPONENT _____

DATE REC'D 8/4/22